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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In the Matter of C.G., a minor.

A.G.,

Petitioner,

v.

THE SUPERIOR COURT OF THE  
COUNTY OF SAN LUIS OBISPO,

Respondent.

SAN LUIS OBISPO COUNTY  
DEPARTMENT OF SOCIAL SERVICES,

Real Party in Interest.

2d Civil No. B219437  
(Super. Ct. No. JV 45684)  
(San Luis Obispo County)

A.G., the presumed father of C.G., seeks extraordinary writ review of the juvenile court's order terminating reunification services and setting a permanency planning hearing. (Cal. Rules of Court, rules 8.452 & 8.456, Welf. & Inst. Code, § 366.26;.)<sup>1</sup> Father asserts that he is developmentally delayed and did not receive reasonable reunification services. We deny the petition.

*Facts*

On February 23, 2007, San Luis Obispo County Department of Social Services (DSS) filed a juvenile dependency petition alleging that three-year old C.G.

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<sup>1</sup> All statutory references are to the Welfare & Institutions Code.

needed court protection because her parents were not supervising or protecting the child. (§ 300, subd (b).) DSS received five referrals that the mother (A.E.) was physically and verbally abusing C.G. Mother refused DSS access and threatened to disappear with C.G. The petition alleged that father was unable or unwilling to protect C.G., that father was concerned that mother would physically or verbally attack him, and that "father's developmental status is also a limiting factor in his protective capacity."

The trial court sustained the petition, declared C.G. a dependent of the court, and permitted C.G. to reside with her parents under court ordered family maintenance.

After the parents missed several mental health assessment appointments, the court ordered in-home parenting services and family maintenance review. Father told the social worker that he "did not see any needs except for [DSS] to get out of the family's life." DSS was concerned because the parents lacked basic parenting skills and using physical discipline to punish C.G.

#### *Section 387 Supplemental Petition*

On November 20, 2007, DSS filed a section 387 supplemental petition to remove C.G. because the parents were abusing the child and minimally responsive to family maintenance services. Mother was slapping and hitting C.G. and calling her a "little whore" and a "bitch." DSS also received referrals that father had pushed and hit C.G., pulled the child's hair, and had hit her on the back leaving a handprint.

DSS reported that "Pre-placement Preventive Services" were provided but ineffectual. After the parents were referred for a mental health assessment, mother missed four appointments and father missed two appointments. Mental Health recommended that the parents attend "coping skills" classes and referred them to an in-home parenting program which they completed. In-home mental health services were started but the parents missed two appointments. By the time the jurisdiction/disposition report was filed, the parents were being evicted and had separated. Mother was living with a family friend and father had moved out.

On January 16, 2008, the trial court sustained the section 387 supplemental petition, removed C.G., and ordered foster care placement and supervised visitation. The parents were ordered to follow a case plan that included parent education services, family counseling, and mental health counseling. The trial court ordered the parents to notify DSS and their attorneys of any circumstances or obstacles that may prevent compliance with the case plan.

In a March 24, 2008 interim review report, DSS reported that the social worker had not heard from father and that mother had missed supervised visits. Mother was uncooperative and lashing out, and was asked to undergo counseling and see a psychiatrist. DSS was concerned because the parents were not following through with the recommended services.

The June 2008 six-month review report was much the same. The parents were still separated and not taking advantage of the services offered. Father was ambivalent and not showing a positive response to the recommended services.

At the 12 month review hearing, DSS reported that father had been referred to the Positive Opportunities for Parenting Success (POPS) parenting program but declined to attend the program. Father was referred again to mental health but failed to show for appointments and missed supervised visits. The visits he did make were with C.G.'s mother and not working out. C.G. hid, engaged in aggressive behavior, sucked her thumb, and refused to go to a November 26, 2008 supervised visit. The foster mother, the visitation supervisor, and C.G.'s teacher believed the visits were harmful.

Mother suffered from antisocial personality traits, suggestive of Bipolar disorder, which affected her ability to parent C.G. Mother claimed that she was able to control her angry outbursts "much better" while on medication but was not taking the medication regularly and planned to discontinue the medication. Mother also reported that her fiancé, Howard, was abusive and had "beat the crap out of me." Mother brought Howard to supervised visits despite requests not to do so. During the visits, C.G. acted-up, hitting and kicking mother.

At a contested 18 month review hearing, DSS reported that C.G. was closely bonded to her foster parents who were ready to adopt. Despite 25 months of services, father and mother had made no positive changes to provide C.G. a safe and secure living environment. The child's therapist reported that it was imperative that C.G. receive a permanent placement to stabilize and move forward in her development.

The trial court found that reasonable services had been provided, terminated reunification services for both parents, and set the matter for a permanent placement hearing.<sup>2</sup> (§ 366.26.)

### *Reasonable Services*

Father claims that reasonable reunification services were not provided. As in any substantial evidence case, we review the evidence and draw all reasonable inferences in favor of the trial court's order. (*Elijah v. Superior Court* (1998) 66 Cal.App.4th 965, 969.) "[I]n reviewing the reasonableness of the reunification services provided by the Department, we must also recognize that in most cases more services might have been provided, and the services which are provided are often imperfect. The standard is not whether the services provided were the best that might have been provided, but whether they were reasonable under the circumstances. [Citation.]"

The evidence shows that father was provided extensive services but failed to avail himself of the services. As an unwilling parent, he could not be forced to participate in reunification services. (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 763; *Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 599.)

Father claims that he is developmentally delayed but there is no evidence that he lacked the cognitive capacity to follow the case plan, follow through on the services provided, or regularly visit C.G.

Father missed supervised visits, rarely initiated interaction with C.G., and failed to progress beyond supervised visits. Father complained about work conflicts and said that visitation interfered with basketball, hockey, and vacation activities. The trial

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<sup>2</sup> Mother has not filed a writ petition.

court did not err in concluding that a parent's failure to participate regularly and make substantive progress in a court-ordered treatment program is grounds enough to terminate services. (§ 366.22, subd. (a).)

### *Developmental Delay*

When C.G. was first detained, father told the social worker that he was developmentally delayed and was a Tri-Counties Regional Center client when he was younger. The social worker, however, could not confirm whether father was currently a Tri-Counties Regional Center client. The trial court ordered a mental health assessment but father failed to show for scheduled appointments. DSS recommended that father work with a therapist but father declined. Individual counseling and parenting education were part of the case plan objectives, but father failed to follow through. Over the course of 25 months, the social worker reviewed the case plan and made referrals but father failed to take advantage of the services offered.

Fathered was ordered to attend parenting classes and undergo counseling to address his inability to protect C.G. The social worker testified that father had no special needs or impediments in the classes he attended, nor did any of the service providers report that father required special accommodations. If development delays were a barrier, the case plan required that father report those problems to DSS and his attorney. Before the 18 month review hearing, father voiced no complaints or say that he was unable to complete the case plan because of a developmental disability.

Father testified that he was supposed to get a mental health assessment "to figure out" if he needed counseling or mental health help and that he "no-showed" the appointment. Father agreed that it was a component part of the case plan and that he chose not to comply.

### *Psychological Evaluation*

The trial court wanted more information about father's developmental delay and ordered a psychological evaluation. Doctor Thomas F. Wylie conducted the evaluation and opined that father had a borderline intellect but possessed the "cognitive capacity to understand the need to attend parenting classes and counseling appointments."

Based on Doctor Wylie's evaluation, the trial court found that father understood the case plan, that reasonable services were offered, and that father's "failure to participate was certainly not the Department's fault."

Father asserts that reunification services should be tailored to the specific needs of the family, but each family member has a duty to cooperate and follow through on the services provided. "Services will be found reasonable if the Department has 'identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained reasonable contact with the parents during the course of the service plan, and made reasonable efforts to assist the parents in areas where compliance proved difficult . . . .' [Citation.]" (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 972-973.)

Extensive services were offered for more than 20 months, during which time father missed appointments, failed to enroll in or complete parenting and counseling programs, and missed many supervised visits. The social worker testified that father was receiving services from North Counties Industries for his developmental delay and that the developmental delay did not "appear to be any kind of barrier to him making progress. . . ." This was corroborated by Doctor Wylie's psychological evaluation, the status reports, and father's own testimony. Father worked full time at a Ford dealership, drove his own vehicle, and had the mental faculties and resources to either follow the case plan or request that the case plan be modified to accommodate his special needs.

### *Conclusion*

The trial court found that DSS "bent over backwards" trying to reunify C.G. with her parents. We concur. The services offered were reasonable and regularly monitored and modified to meet father's needs. "The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances." (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.)

Substantial evidence supports the finding that father understood the case plan goals, that father knew how to access services, that the services offered were

reasonable, and that father stymied the case plan by not cooperating or following through. The termination of services cannot be blamed on DSS or the trial court. (See e.g., *In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1363; *Angela S. v. Superior Court, supra*, 36 Cal.App.4th at p. 763.) "The trial court is only required to order that reasonable reunifications services be provided; it cannot make the parents accept those services. [Citation.]" (*In re Joanna Y.* (1992) 8 Cal.App.4th 433, 442.)

The petition for extraordinary writ is denied.

NOT TO BE PUBLISHED.

YEGAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

Superior Court County of San Luis Obispo

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Mary Ann Foster, for Petitioner

No appearance for Respondent.

Warren R. Jensen, County Counsel, County of San Luis Obispo and Leslie  
H. Kraut, Deputy County Counsel, for Real Party in Interest.